



Roadmap to Recovery®
Advocacy and Action
Roadmap to Preparedness

October 22nd, 2024

Commissioner Michael Conway
Colorado Division of Insurance
1560 Broadway, Suite 850
Denver CO 80202
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**RE: Comments for October 31, 2024 Hearing Regarding Proposed Amended Regulation 2-4-1
Concerning Surplus Lines Insurance Issued By Nonadmitted Insurers**

Dear Commissioner Conway:

On behalf of the Colorado home and business owners that United Policyholders serves through our Roadmap to Preparedness and Roadmap to Recovery programs¹, we thank you and your staff for taking action to educate consumers, increase public awareness of the risks associated with insuring real property with a non-admitted, surplus lines/excess insurer, and affirm that while those entities are less regulated and not protected by insolvency funds, they are subject to fair claim handling regulations, statutes and case law.

We are aware that non-admitted carriers are serving as a safety valve for property owners in today's stressed insurance marketplace where admitted carriers are drastically reducing underwriting and sales. With more and more properties finding no options other than the non-admitted market, it is imperative non-admitted insurers meet consumers' reasonable expectations as to both coverage and claim handling.

United Policyholders respectfully submits the following two comments to Proposed Amended Regulation 2-4-1.

¹ United Policyholders ("UP") is a 501(c)(3) that has been educating and advocating for insurance consumers across the nation since 1991. UP has been helping Colorado residents recover from and be prepared for wildfires, floods, wind and hail storms and other adverse events since 2010.



Disclosure Section 5(a):

United Policyholders believes this disclosure (1) will not enable a consumer to fully understand the particular risks associated with non-admitted insurers and (2) may inadvertently cause consumers to believe they are not entitled to the full benefit of Colorado laws and regulations relating to fair claims handling procedures. We therefore respectfully propose the following additional language to be added following the sentence that reads, “There is no protection under the provisions of the ‘Colorado Insurance Guaranty Association Act’.”

“This means that if this insurer becomes insolvent and unable to pay claims, you will not be able to file a claim with the Insurance Guaranty Association Trust Fund. In addition, this carrier’s forms have not been submitted or approved by the Colorado Division of Insurance for readability or content and this insurer is not subject to regulation of rates by the Colorado Division of Insurance. Notwithstanding any lack of protection under the Colorado Insurance Guaranty Association Act, the insurer issuing this contract remains subject to Colorado insurance laws and regulations of generally applicability including but not limited to fair claims handling laws and regulations.”

Procurement Section 7(a):

United Policyholders respectfully opposes the proposed amendment to Section 7(a). Allowing a broker to satisfy their due diligence requirements by simply stating that they are familiar with the admitted market and that a particular risk cannot be placed with the admitted market would (1) have no practical way of being verified by regulators since the state of another’s knowledge is difficult to quantify, (2) will discourage brokers from pro-actively keeping abreast of the availability of admitted insurance in a particular market, and (3) could stifle competition from new admitted carriers who would have harder time breaking into a market or area, if that market or area had been dominated by surplus lines carriers. As currently written, the due diligence requirement in Section 7(a) is not overly burdensome and should remain in place.

Thank you for your consideration of these comments and your work on this important matter,

A handwritten signature in cursive script that reads "Amy Bach".

Amy Bach
Executive Director
United Policyholders